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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,513	07/30/2001	Karen Appleby	YOR920010330US1	9755
21254	7590	12/19/2003	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817			HUYNH, KIM T	
			ART UNIT	PAPER NUMBER
			2112	

DATE MAILED: 12/19/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 09/916,513	Applicant(s) APPLEBY ET AL.	
	Examiner Kim T. Huynh	Art Unit 2189	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2001.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Colby et al. (US Patent 6,006,264)

As per claims 1, 20, 30, 31, Colby discloses a method in a computer network of controlling an admittance of requests to at least one processing component said method comprising:

- Differentiating a type of said requests based on a content in each said request; and (col.2, lines 48-58)
- Admitting said each request only if said differentiated type meets at least one criterion for admission. (col.2, line 48- col.3, line 29)

As per claim 2, Colby discloses the method further comprising:

Returning a message to a sender of each said request not admitted.

(col.9, lines 58-67)

As per claim 3, Colby discloses the method further comprising

- evaluating at least one criterion in said computer network; and (col.3, lines 10-28)
- Performing said software program in at least one of said one or more entry points. (col.2, line 59-col.3, line 29), (col.19, lines 44-55), wherein queuing algorithm implies programming entry points)

As per claim 4, Colby discloses wherein said method is embodied in a software program, wherein said admittance to said at least one processing component is gained through one or more entry points, said method further comprising activating said software program in at least one of said one or more entry points. (col.2, line 59-col.3, line 29) wherein selecting implies activating)

As per claim 5, Colby discloses wherein said at least one processing component comprises a plurality of processing components, said at least one or more entry points comprises a plurality of web servers, and said activation of said software program occurs in each web server in said plurality of web servers, thereby providing an admittance method that is distributed. (col.3, lines 10-29)

As per claim 6, Colby discloses wherein said software program comprises a plugin software module. (col.19, lines 44-55)

As per claim 7, Colby discloses wherein said at least one evaluation criterion comprises a measurement of activity on said network. (col.2, lines 48-58)

As per claim 8, Colby discloses wherein said measurement of activity comprises a measurement of requests to said at least one processing component. (col.3, lines 10-29)

As per claim 9, Colby discloses wherein said at least one criterion for admission comprises evaluation of a response time. (col.11, lines 31-45)

As per claim 10, Colby discloses the method further comprising prioritizing said requests within a same type, based on further refinement of said content. (col.11, lines 46-59)

As per claim 11, Colby discloses wherein said computer network comprises a distributed heterogeneous computing environment having a dependency of said processing components represented. (col.2, lines 48-58)

As per claim 12, Colby discloses method further comprising: determining a load imposed on a dependee processing component. (col.3, lines 10-29)

As per claim 13, Colby discloses wherein said load determination is performed in a central location. (col.3, lines 10-29), fig.1b, 110

As per claim 14, Colby discloses wherein said at least one criterion for admission comprises said determined load on said dependee component. (col.2, line 48-col.3, line 29)

As per claim 15, Colby discloses method further comprising: associating a user defined response with selected ones of said requests that are not admitted. (col.9, lines 58-67)

As per claim 16, Colby discloses wherein said admission control is applied at a tier to control admittance to a next processing component along a request flow path. (col.2, line 59-col.3, line 10, wherein Quality of Service classes implies tier)

As per claim 17, Colby discloses where said at least one criterion for admission comprises a determination that a dependee processing component is not currently available. (col.9, lines 58-col.10, line 11)

As per claim 18, Colby discloses the method further comprising: determining a load of a target processing component; and altering a normal response to a request based on said load determination. (col.3, lines 10-29)

As per claim 19, discloses wherein said admitting of said each request is distributed. (col.3, lines 10-29), wherein selecting implies distributed)

As per claim 21, Colby discloses wherein said environment comprises a network and said direction component comprises a location information relative to said network. (col.3, lines 20-29), servers implies networks.)

As per claim 22, discloses the method further comprising: evaluating whether said admission evaluation should be performed based on a status of said environment. (col.2, lines 48-58)

As per claim 23, Colby discloses wherein said environment status comprises a measurement of activity in said environment. (col.2, lines 48-58)

As per claim 24, Colby discloses wherein said admission evaluation is distributed at multiple points in said distributed heterogeneous computing environment. (col.3, lines 10-29)

As per claim 25, Colby discloses wherein said evaluation of at least a part of said message component comprises an evaluation of a response time for said request. (col.11, lines 46-59)

As per claim 26, Colby discloses a request throttler in a computer network that controls an admittance of requests to at least one processing component, said request throttler comprising: a differentiator to evaluate a message content of each of said requests; and a switch to admit said each request only if said evaluation passes at least one criterion for admission. (col.2, line 48-col.3, line 29)

As per claim 27, Colby discloses wherein said differentiator and said switch comprises a set of computer instructions. (col.19, lines 50-55)

As per claim 28, discloses wherein said set of computer instructions comprises a software plugin. (col.19, lines 44-55)

As per claim 29, Colby discloses wherein said differentiator and said switching functions are distributed in said network. (fig.1b, col.3, lines 10-29)

### **Conclusion**

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Huynh whose telephone number is (703)305-5384 or via e-mail addressed to [kim.huynh3@uspto.gov]. The examiner can normally be reached on M-F 8:30AM- 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (703) 305-4815 or via e-mail addressed to [mark.rinehart@uspto.gov]. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9306 for regular communications and After Final communications.

Art Unit: 2189

*Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-5631.*

Kim Huynh

Dec. 12, 2003



Primary Examiner  
A. U. 2189